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SUBJECT: ARGENTINE CHAMBER OF DEPUTIES PASSES NEW TIP LEGISLATION

REF: A) BUENOS AIRES 344

B) BUENOS AIRES 438

**¶1.** (SBU) Summary: The Argentine Chamber of Deputies passed a bill on April 9 that, for the first time, defines trafficking in persons as a federal crime. While the new legislation represents a step in the right direction, it has generated controversy among feminist and human rights organizations primarily due to the condition that it distinguishes between victims over and under the age of 18.

According to NGOs, the law falls short of Argentina's international obligations under the Palermo Protocol, as trafficking victims over the age of 18 would need to prove that they did not consent to their trafficking and exploitation. Embassy is congratulating the GOA on passage of this legislation, urging vigorous implementation, and offering support and cooperation in combating TIP. End Summary.

**¶2.** (U) On April 9, a strong majority (157 to 35, with 6 abstentions) in the Argentine Chamber of Deputies passed a bill that defines trafficking in persons as a federal crime for the first time. This legislation passed unanimously in the Senate in December 2006. Launched by Minister of Justice, Anibal Fernandez, the law punishes the "recruitment, transportation or relocation, and harboring or receipt of persons for the purpose of sexual or labor exploitation or the removal of organs." (See Ref A for Embassy reporting on the current legislation).

**¶3.** (U) By defining sexual and labor exploitation as a federal crime, the legislation more effectively prosecutes traffickers and procurers. Under this new law, victims over the age of 18 must prove that they were forced into slavery and did not consent to their trafficking and exploitation. The law, however, would not require minors to prove their lack of consent. The penalties for human trafficking now range from 3 to 15 years in prison, with traffickers of minors receiving longer sentences.

**¶4.** (U) The current legislation has generated controversy, particularly among feminist and human rights associations, as it distinguishes between victims under and over the age of 18. According to NGOs, the law falls short of the international obligations under the Palermo Protocol, which Argentina ratified in 2002. Many organizations oppose the legislation due to the condition that victims over 18 years old would need to prove that they did not consent to their exploitation. They claim that trafficking contains no consent, only deception, coercion, and violence.

**¶5.** (U) NGOs argue that the new law presumes victims can consent to their own exploitation. Organizations such as the Institution Against Discrimination and Xenophobia (INADI) and Red No a la Trata note that they believe prostitution, which constitutes approximately 90% of trafficking cases, should always be considered a crime, regardless of the consent of the victim. They argue that the definition of trafficking should not include the issue of consent, as it favors impunity for procurers and traffickers. Moreover, they claim the bill is incomplete as it does little to convict the owners of clandestine textile workshops and brothels, and omits an

assistance and aid program for the victims.

¶6. (U) Anti-TIP activists instead have rallied for legislation that would more effectively condemn procurers and traffickers. (See Ref B for Embassy reporting on demonstrations against the new legislation). In accordance with the Palermo Protocol, the law should not distinguish between victims under or over the age of 18 and presume that victims can consent to their own exploitation. It would consider the trafficking of persons into prostitution or other forms of slavery a crime, regardless of the age of the victim. Activists argue that a law without this distinction would more effectively protect the human rights of trafficking victims.

¶7. (SBU) Comment: While the legislation passed by the Argentine Congress falls short of Palermo Protocol obligations, it marks an important step in the right direction. The disappearance of Marita Veron in April 2002, and the anti-TIP efforts of her mother, Susana Trimarco, who received the State Department's 2007 International Women of Courage Award, brought human trafficking into the public eye. Since then, TIP is an issue that Argentines, on their own, recognize as a serious concern. Despite its shortcomings, the new law will place trafficking in persons under federal jurisdiction and serve as a catalyst for launching other initiatives, such as the GOA's TIP action plan that focuses on improved assistance for trafficking victims. The Embassy is congratulating the GOA on passage of this legislation, urging vigorous implementation, and offering support and cooperation in combating TIP. End Comment.

WAYNE